ness may not be held for another. *Duncan* v. *Brennan*, 83 N. Y. 487. Moreover, where bankers have a lien which, like the innkeeper's, enables them to hold any securities for the whole amount due, property deposited for a specific purpose may not be so held. *Neponset Bank* v. *Leland*, 5 Met. (Mass.) 259. On these analogies it seems that the tickets deposited to secure the loan in the principal case could not be used to enforce payment of the other claims, and so the lien does not attach to them. The innkeeper is a mere pledgee from a thief and can assert no rights against the true owner.

INSANE PERSONS — GUARDIANSHIP AND PROTECTION — FALSE IMPRISONMENT. — The plaintiff, the committee of an incompetent person, had allowed the incompetent to live with the defendant for some years. Later he hired him out to A. The defendant took the incompetent from A against the will of the committee and detained him. The plaintiff, in his capacity as committee, sued the defendant for false imprisonment. *Held*, that the plaintiff can recover. *Baker, Committee of Sutliff*, v. *Washburn*, 200 N. Y. 280.

There appears to be no precedent for this action; there are, however, analogous decisions which justify the result. The relation of committee and lunatic is similar to that of guardian and ward, and governed by the same laws. *Holyoke* v. *Haskins*, 5 Pick. (Mass.) 20. An infant ward is always under restraint; but to give ground for an action for false imprisonment the restraint must be unlawful. POLLOCK, TORTS, 8 ed., 221. The test is not the will of the child but the character of the restraint. The restraint of a child against its will by its guardian or one to whom it is properly entrusted is lawful. *Townsend* v. *Kendall*, 4 Minn. 412. But restraint by one against the will of the guardian, even though the child does not object, is unlawful. *Robalina* v. *Armstrong*, 15 Barb. (N. Y.) 247; *Commonwealth* v. *Nickerson*, 5 Allen (Mass.) 518. The principal case is precisely analogous to these cases. If the committee should sue in his own right, he could only recover nominal damages for the interference with his right of custody, for he is not entitled to the earnings of his ward. *Heilman* v. *Martin*, 2 Ark. 158. The form of action in the principal case is therefore best suited to the recovery of full damages.

INSURANCE — CONSTRUCTION AND OPERATION OF CONDITIONS — IMPOSSIBILITY AS EXCUSE FOR FAILURE TO GIVE NOTICE. — The plaintiff held a policy insuring him against sickness, which provided that the insured or his representative must mail notice of sickness within ten days after the commencement of such sickness as a condition precedent to recovery. The plaintiff did not mail notice till a month after the commencement of his illness, but during that time he was delirious. *Held*, that the plaintiff can recover nothing. *Whiteside* v. *North American Accident Ins. Co.*, 93 N. E. 948 (N. Y.).

On the question whether the deranged mental condition of the insured is an excuse for failure to perform the condition of giving notice, three views have been taken. One of the earliest cases holds that the condition must be performed at all events. *Gamble* v. *Accident Ass. Co.*, Ir. R. 4 C. L. 204. The middle view is that the plaintiff can recover, but only for the period beginning ten days before the notice was sent. *Guy* v. *U. S. Casualty Co.*, 151 N. C. 465. But the decided weight of authority, augmented by many recent cases, holds that the plaintiff's disability is a complete excuse, and considers the condition performed if notice is sent within the time stipulated after the removal of the obstacle. *Comstock* v. *Fraternal Accident Ass'n*, 116 Wis. 382; *Hayes* v. *Continental Casualty Co.*, 98 Mo. App. 410. A previous New York case is a leading authority for this doctrine. *Trippe* v. *Provident Fund Society*, 140 N. Y. 23. Courts of law often give relief on equitable principles against the performance of express conditions. Familiar examples are impossibility of performance, and where the defendant himself has prevented the perform-

ance of the condition. *Liverpool, etc. Ins. Co.* v. *Kearney*, 180 U. S. 132; *Batterbury* v. *Vyse*, 2 H. & C. 42. To allow the excuse is the more justifiable when it is considered that the condition was to be performed after the loss insured against had occurred. *Woodmen's Accident Ass'n* v. *Byers*, 62 Neb. 673; *Peale* v. *Provident Fund Society*, 147 Ind. 543.

INSURANCE — DEFENSES OF INSURER — PROPERTY USED IN ILLEGAL BUSINESS. — The defendant insured against fire a house on which the plaintiff held a lien, the policy containing the clause "while occupied as a sporting house." The premium paid was higher than that on a respectable dwelling. The immoral use continued up to the time of the fire. *Held*, that the insured can recover. *Trites Wood Co.* v. *Western Assurance Co.*, 15 West. L. Rep. 475 (Brit. Columbia, Ct. App., Nov. 1, 1910).

The principal difference between this case and the one discussed in 23 HARV. L. REV. 635, is that here "while" is inserted before the words "occupied as a sporting house." This difference makes a construction of the words as a permission instead of a warranty somewhat more strained. For this reason, the present case is even more objectionable than the other.

INTERNATIONAL LAW — NATURE AND EXTENT OF SOVEREIGNTY — FOREIGN VESSELS. — An Act of the Philippine Commission provided that the masters of vessels carrying cattle from any foreign port to any port within the Philippine Islands should provide suitable means for securing such animals while in transit. The master of a Norwegian vessel in Manila Bay was indicted for violating this statute and pleaded lack of jurisdiction in the Philippine court. *Held*, that the court has jurisdiction. *United States* v. *Bull*, 5 Am. J. Int. Law, 242 (Phil. Is., Sup. Ct., Jan. 15, 1910). See NOTES, p. 489.

INTOXICATING LIQUORS — WHAT CONSTITUTES SALE TO CLUB MEMBERS. — The defendant, an incorporated, *bonâ fide* social club, was indicted for the illegal sale of liquor. The manager of the club, at the request of a member, ordered from a dealer outside the state ten dozen bottles of beer, to be shipped to the member in care of the club. The member gave the manager the price of the beer, which amount was put into the club funds, and a check of the club accompanied the order to the dealer. When the beer was received, it was mingled with the other bottles of beer in the club refrigerators, and was put at the member's disposal by means of a coupon system. No charge was made to the member for handling the beer. The club was not an agent of the liquor dealer. *Held*, that a conviction cannot be sustained. *State* v. *Colonial Club*, 69 S. E. 771 (N. C.).

North Carolina maintains the doctrine that a sale of liquor in a *bonâ fide* social club is within a statute forbidding the sale of liquors. *State* v. *Lockyear*, 95 N. C. 633; *State* v. *Neis*, 108 N. C. 787. But here the agency of the club in ordering and receiving did not vest title in the club. *Wright* v. *State*, 35 Tex. Cr. Rep. 581; *Hogg* v. *People*, 15 Ill. App. 288. Nor does depositing the beer with the club change the title. *State* v. *Wingfield*, 115 Mo. 428; *Potts* v. *State*, 96 S. W. 1084 (Tex.). The mingling of the bottles bears a clear analogy to the grain elevator cases, and such a tenancy in common is possible. *Moses* v. *Teetors*, 64 Kan. 149. See WILLISTON, SALES, § 154; 6 AM. L. REV. 450. Beer bottles of the same brand must be considered fungible. *Cf. Pleasants* v. *Pendleton*, 6 Rand. (Va.) 473. The coupons are merely warehouse receipts, and this transaction is not a sale. *Commonwealth* v. *Smith*, 102 Mass. 144. Nor is this a colorable evasion of the law. But *cf. Rickart* v. *People*, 79 Ill. 85. If the legislature desires to prevent the presence of liquor in a club, it may easily do so. *Cf. State* v. *Kapicsky*, 105 Me. 127. The dissenting judges have confused